

APPENDIX A**STATUTES, EXECUTIVE ORDERS, AND REGULATIONS****Statutes**

Armed Services Procurement Act of 1947, 62 Stat. 21,

41 U.S.C. §§ 151-161:

151 (c) All purchases and contracts for supplies and services shall be made by advertising; as provided in section 152 of this title, except that such purchases and contracts may be negotiated by the agency head without advertising if—

(1) determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress; * * *

(12) for supplies or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed; * * *

153 * * * Except as provided in subsection (b) of this section, contracts negotiated pursuant to section 151 (c) of this title may be of any type which in the opinion of the agency head will promote the best interests of the Government. * * *

5 U.S.C., § 22, R.S. § 161, as amended, Public Law 85-619, 72 Stat. 547:

The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it. This section does not authorize withholding information from the public or limiting the availability of records to the public.

**Internal Security Act of 1950, Public Law 831, ch. 1024, 64 Stat. 989,
50 USC §§ 781-798:**

Sec. 3. For the purposes of this title—

(3) The term "Communist-action organization" means—

(a) any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such by the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title; and

(b) any section, branch, fraction, or cell of any organization defined in subparagraph (a) of this paragraph which has not complied with the registration requirements of this title.

(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraph (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.

Sec. 5. (a) When a Communist organization, as defined in paragraph (5) of section 3 of this title, is registered or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(A) in seeking, accepting, or holding any non-elective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

(B) to hold any nonelective office or employment under the United States; or

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility.

(2) For any officer or employee of the United States, or of any defense facility, with knowledge or notice that such organization is so registered or that such order has become final—

(A) to contribute funds or services to such organization; or

(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, and act if such act or omission would constitute a violation of any provision of subparagraph (1) of this subsection.

Administrative Procedure Act, Act of June 11, 1946, ch. 324, 60 Stat. 240-243, 50 U.S.C., §§ 1004, 1005, 1006, 1009:

SEC. 5. In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is in-

volved (1) any matter subject to a subsequent trial of the law and the facts de novo in any court; (2) the selection or tenure of an officer or employee of the United States other than examiners appointed pursuant to section 11; (3) proceedings in which decisions rest solely on inspections, tests, or elections; (4) the conduct of military, naval, or foreign affairs functions; (5) cases in which an agency is acting as an agent for a court; and (6) the certification of employee representatives—

(a) NOTICE.—Persons entitled to notice of an agency hearing shall be timely informed of (1) the time, place, and nature thereof; (2) the legal authority and jurisdiction under which the hearing is to be held; and (3) the matters of fact and law asserted. In instances in which private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the times and places for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

SEC. 6. Except as otherwise provided in this Act—

(c) SUBPENAS.—Agency subpoenas authorized by law shall be issued to any party upon request and, as may be required by rules of procedure, upon a statement or showing of general relevance and reasonable scope of the evidence sought. Upon contest the court shall sustain any such subpoena or similar process or demand to the extent that it is found to be in accordance with law and, in any proceeding for enforcement, shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

SEC. 7. In hearings which section 4 or 5 requires to be conducted pursuant to this section—

(a) **PRESIDING OFFICERS.**—There shall preside at the taking of evidence (1) the agency, (2) one or more members of the body which comprises the agency, or (3) one or more examiners appointed as provided in this Act; but nothing in this Act shall be deemed to supersede the conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute. The functions of all presiding officers and of officers participating in decisions in conformity with section 8 shall be conducted in an impartial manner. Any such officer may at any time withdraw if he deems himself disqualified; and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of any such officer, the agency shall determine the matter as a part of the record and decision in the case.

(b) **HEARING POWERS.**—Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its powers, to (1) administer oaths and affirmations, (2) issue subpoenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken whenever the ends of justice would be served thereby, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommend decisions in conformity with section 8, and (9) take any other action authorized by agency rule consistent with this Act.

(c) **EVIDENCE.**—Except as statutes otherwise provide, the proponent of a rule or order shall have the burden of proof. Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repeti-

tious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses any agency may, where the interest of any party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(d) **RECORD.**—The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision in accordance with section 8 and, upon payment of lawfully prescribed costs, shall be made available to the parties. Where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

SEC. 10. Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) **RIGHT OF REVIEW.**—Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) **FORM AND VENUE OF ACTION.**—The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence of inadequacy

thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

* * *

(c) **SCOPE OF REVIEW.**—So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

Executive Orders

Executive Order 10290, September 27, 1951, 16 Fed. Reg. 9795:

30 (b) *Outside the Executive Branch.* Classified security information shall not be disseminated outside the Executive Branch by any person or agency having access there-

to or knowledge thereof except under conditions and through channels authorized by the head of the disseminating agency, even though such person or agency may have been solely or partly responsible for its production.

Regulations

**Industrial Personnel and Facility Security Clearance Program,
OPNAVNOTE 5510, May 4, 1953.**

SECTION I

GENERAL

3. Policy.

a. While the military departments will assume, unless information to the contrary is received, that all of their contractors and contractor employees are loyal to the Government of the United States and that granting a clearance would not endanger national security, the vital role of the military departments in national defense necessitates vigorous application of policies designed to minimize the security risk incident to the use of classified security information by such contractors and contractor employees. Therefore, adequate measures will be taken to provide continuing assurance that no contractor or contractor employee will be granted a clearance if available information indicates that the granting of such clearance may not be clearly consistent with the interests of national security. At the same time, every possible safeguard within the limitations of national security will be provided to assure that no contractor or contractor employee will be denied a clearance without an opportunity for a fair hearing.

SECTION III

STANDARD AND CRITERIA

11. *Standard for Denial of Clearance.* The Standard for the denial of clearance shall be that, on all the information, the granting such clearance is not clearly consistent with the interests of national security.

12. *Criteria for Application of Standard in Cases Involving Individuals.*

a. The activities and associations listed below which may be the basis for denial of clearance are of varying degrees of seriousness. Therefore the ultimate determination of whether clearance should be granted must be an over-all common-sense one, based on all available information.

(1) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(2) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(3) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(4) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, asso-

ciation, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(5) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law.

(6) Performing or attempting to perform his duties, or otherwise acting so as to serve the interests of another government in preference to the interests of the United States.

(7) Participation in the activities of an organization established as a front for an organization referred to in subparagraph (4) above when his personal views were sympathetic to the subversive purposes of such organization.

(8) Participation in the activities of an organization with knowledge that it had been infiltrated by members of subversive groups under circumstances indicating that the individual was a part of or sympathetic to the infiltrating element or sympathetic to its purposes.

(9) Participation in the activities of an organization referred to in subparagraph (4) above, in a capacity where he should reasonably have had knowledge of the subversive aims or purposes of the organization.

(10) Sympathetic interest in totalitarian, Fascist, Communist, or similar subversive movements.

(11) Sympathetic association with a member or members of an organization referred to in subparagraph (4) above. (Ordinarily this will not include chance or occasional meetings, nor contacts limited to normal business or official relations.)

(12) Currently maintaining a close continuing association with a person who has engaged in activities or associations of the type referred to in subparagraphs (1) through (10) above. A close continuing association may be deemed to exist if the individual lives at the same premises as, frequently visits, or frequently communicates with such person.

(13) Close continuing association of the type described in subparagraph (12) above, even though later separated by distance, if the circumstances indicate that renewal of the association is probable.

(14) Willful violation or disregard of security regulations.

(15) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(16) Any deliberate misrepresentations, falsifications, or omission of material facts from a Personal Security Questionnaire, Personal History Statement, or similar document.

(17) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(18) Acts of a reckless, irresponsible or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose security information to unauthorized persons or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the security of the United States.

(19) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(20) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pres-

sure which may cause him to act contrary to the best interests of the national security.

(21) The presence of a spouse, parent, brother, sister, or offspring in a nation whose interests may be inimical to the interests of the United States, or in satellites or occupied areas of such a nation, under circumstances permitting coercion or pressure to be brought on the individual through such relatives.

b. Legitimate labor activities shall not be considered in determining whether clearance should be granted.

13. *Criteria for Application of Standard in Cases Involving Contractors.* The granting of a clearance to a contractor should not be clearly consistent with the interests of national security if the clearance of an officer, director, owner or key employee of the contractor who is required to be cleared in connection with a facility security clearance has been or would be denied under the standard and criteria contained in paragraphs 11 and 12 above.

SECTION IV

PROCESSING OF CASES

16. *Initial Adjudication Procedures (Screening Division Action).*

c. If the Screening Division determines unanimously that a clearance should be granted, it will prepare its finding in the form set forth in paragraph 20d, substituting the word "Screening" for "Appeal." The Executive Secretary will notify the agency which forwarded the case to him of the decision and instruct it to grant the clearance. In the event such unanimity cannot be reached, action will be taken in accordance with subparagraph d below.

d. If the Screening Division concludes on the basis of the entire file and in accordance with the standard and criteria set forth in Section III that the case does not warrant, a security finding favorable to the contractor or contractor employee, it will, in collaboration with the Security Advisor and the Legal Advisor, prepare a notice of proposed denial or revocation of clearance and a Statement of Reasons which will be as specific and detailed as, in the opinion of the Screening Division, security considerations permit, in order to provide the contractor or contractor employee with sufficient information to prepare a reply. The notice will also forward to the contractor or contractor employee a copy of this directive and will inform him of his right within 10 calendar days from the date of his receipt of the notice, to reply to the Statement of Reasons in writing under oath or affirmation, together with such statements, affidavits or other documentary evidence as he may desire to submit.

. . .

18. *Action by the Appeal Division.*

. . .

e. Whenever the contractor or contractor employee requests a hearing within the time specified, the Appeal Division will set a time and place for the hearing and will request the Executive Secretary to notify him thereof. The hearing will be held as soon as practicable allowing the contractor or contractor employee a reasonable time to prepare his case and obtain witnesses if desired.

d. Each individual case file referred to an Appeal Division will be studied, prior to the hearing, by each Division member who is to participate in the hearing and in the determination of the case. In this way, Division members will be able to conduct the hearing in an intelligent manner by being informed in advance of the facts giving rise to the case, and thereby become aware of those areas which will require exploration and explanation at the time

of the hearing. However, it must be borne in mind constantly when studying the file prior to the hearing that the investigative reports, Statements of Reasons, and other information in the file may represent only one side of the case, and that the employee has not, as yet, introduced his entire defense. Accordingly, Division members should not form any premature conclusions as to the eventual determination of the case.

e. The Appeal Division may, on its own motion, request the attendance of such witnesses as it deems appropriate. Invitations should state the time and place where the hearing will be held and that the Government cannot pay witness fees or reimbursement for travel or other expenses.

* * *

19. *Conduct of Hearings.*

a. Hearings are designed to accomplish two major purposes: (1) to permit the contractor or contractor employee to present evidence in his behalf and (2) to give the Appeal Division an opportunity to consider all available information and make searching inquiry to aid it in reaching a fair and impartial determination. Accordingly, such hearings are not to be conducted with the formality of a court proceeding. Rather, the hearings will be conducted as administrative inquiries held for the purpose of affording the contractor or contractor employee an opportunity to be heard and to permit the Appeal Division to inquire fully the matters related to the particular case.

b. The Security Advisor will be present at the hearing to furnish advice to the Appeal Division and to assist it in making certain that the record is complete. He may interrogate witnesses who appear before the Division, but he is in no sense a prosecutor and will not conduct himself as such. In the discretion of the Division, the Security Advisor and the Legal Advisor may attend executive sessions

of the Division, but they will not attend the executive session at which the Division arrives at its final finding and determination.

c. Hearings will be conducted in an orderly manner and in a serious atmosphere of dignity and decorum. They may be attended only by the members of the Division participating in the hearing, the contractor or contractor employee and his counsel or representative, the Legal Advisor, other authorized government personnel, and such witnesses as the Government or the contractor or contractor employee desires to introduce. The contractor or the contractor employee and his counsel or representative may be present throughout the hearing. Usually a witness may be present only when he is actually testifying.

d. The Appeal Division may consider any information either oral or written, which, in the minds of reasonable men, is of probative value to determine the issue involved. Strict rules of evidence will not be followed, but reasonable bounds with respect to relevancy, materiality and competency will be maintained. Every reasonable effort will be made to obtain the best information available. Hearsay matter may be admitted without regard to technical rules of admissability and accorded such weight as the circumstances warrant.

e. Hearings will be called to order by the Chairman, who will make an opening statement substantially as follows:

"The Appeal Division of the (Eastern-Central-Western) Industrial Personnel Security Board established by order of the Secretaries of the Army, Navy, and Air Force is now ready to proceed with the hearing in the case of (name of contractor or contractor employee). This is not a court of law and strict rules of evidence and court procedures are not followed. This is an administrative hearing held for the purpose of affording you an opportunity to be heard and to permit the Division to inquire fully into the matters related to your case. You have the right to participate

in this hearing and to be represented by counsel or other representative and to present witnesses in your behalf. You can assist the Division in arriving at a fair and just determination in your case by giving full and frank answers to all questions the Division may have and by confining your attention to matters related to your case. The transcript to be made of this hearing will not include all material in the file of the case in that it will not include reports of investigation conducted by the Federal Bureau of Investigation or other investigative agencies which are confidential. Neither will it contain information concerning the identity of confidential informants or information which will reveal the source of confidential evidence. The transcript will contain only the Statement of Reasons, your answer thereto, and the testimony actually taken at this hearing."

f. Following the opening statement, the Chairman will read the Statement of Reasons and inform the contractor or contractor employee that if he so desires he may make any statement he wishes and introduce any witnesses in his behalf. Statements by the contractor or contractor employee and all testimony of witnesses must be made under oath or affirmation administered in the following manner:

"Do you, (name of employee or witness) solemnly (swear) (affirm) that the testimony you are about to give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth, (so help you God)?"

g. Appeal Divisions are directed to conduct proceedings in such manner as to protect from disclosure classified security information or information tending to compromise investigative sources or methods. The Division should give the contractor or contractor employee the fullest possible opportunity, consistent with security considerations, to explain or refute derogatory information contained in the investigative reports, but it is imperative

that proposed lines of questioning be considered carefully in the light of security principles.

h. Subsequent to the statement of the contractor or contractor employee and the introduction of such witnesses as he may desire, the hearing will proceed as directed by the Division. The Division may recess the hearing at any time and meet in executive session. No transcript of an executive session will be made as such session is not considered a part of the hearing. Before the Division adjourns the hearing it should ask the contractor or contractor employee whether he desires additional time to secure and present evidence. He will present such additional evidence at such time as the Division directs. Usually such evidence will be in affidavit or documentary form.

i. A verbatim transcript will be made of the hearing by qualified reporters and the transcript will be made a permanent part of the record. The contractor or contractor employee will be furnished a copy of the transcript, less exhibits, without cost if he, or his counsel or representative, requests it. The transcript will be reviewed by the Division in collaboration with the Security Advisor, prior to release to insure that it contains no classified security information.

j. If the contractor or contractor employee or his counsel or representative desires to submit corrections in the transcript to the Division, he will note the corrections on a separate statement, designating the page and line. The statement of corrections must be filed within the time set by the Division. The Division will determine what corrections are allowable, will enter upon the transcript by marginal notation the corrections which are allowed, and will enter on the statement filed by the contractor or contractor employee the corrections which are rejected. This statement will be made a part of the original transcript so that it may be a permanent part of the record. The Division in its discretion may call upon the contractor or

contractor employee, his counsel or representative, for a discussion of the corrections prior to its determination thereon. Corrections will be allowed solely for the purpose of conforming the transcript to the actual testimony.

20. Appeal Division Determination.

a. As promptly as possible after the hearing, and after full consideration of the complete file, including all evidence, arguments, briefs, testimony and discussions in each case, the Division will meet in executive session and reach its determination under the standard and criteria set forth in Section III.

b. The determination will be reached by majority vote, will be recorded in writing, signed by the members, and will be made a permanent part of the record in each case. If a minority opinion is given, it will also be made a part of the permanent record.

c. The determination will include a finding with respect to each of the statements set forth in the Statement of Reasons.

d. The findings will also include any other statements pertinent to the determination of the case, and a statement in the following form:

"The Appeal Division determines that, on all the available information, the granting of clearance to for access to classified security information is (is not) clearly consistent with the interests of national security."

e. Decisions of the Appeal Division shall be final, subject only to reconsideration on its own motion or at the request of the appellant for good cause shown or at the request of the Secretary of any military department.

APPENDIX B

ANALYSIS OF SWORN TESTIMONY AND CONTEMPORANEOUS DOCUMENTS RELATING TO REASONS ADVANCED BY EASTERN INDUSTRIAL PERSONNEL BOARD AS GROUNDS FOR DENYING CLEARANCE TO WILLIAM LEWIS GREENE.

I. Reasons arising out of Greene's attempt to interest military officials attached to the Soviet Embassy in the products of his company:

9. During 1943 SUBJECT was in contact with Col. Alexander Hess of the Czechoslovak Embassy, who has been identified as an agent of the Red Army Intelligence.

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. The board apparently abandoned this charge, as there is no adverse finding based upon it. (R. 23, 24)

B. The security officer admitted that Greene's testimony with reference to Hess was in accordance with the material contained in his file. (R. 422, 425)

C. Hess, a confidant of the Benes government of Czechoslovakia, fled when the Communists assumed power in that country, and was admitted to the United States as a political refugee. He is now employed by Pan-American Airlines. (R. 260).

D. Greene met Colonel Alexander Hess, then military attache of the Czech free government in exile, at a dinner arranged by Henri Hochfeld, an employee of ERCO for the purpose of having Hess introduce Greene to Colonel Berezin, the assistant military attache for air of the Soviet Embassy. (R. 82, 259, 260).

7. Beginning about 1942 and continuing for several years thereafter SUBJECT maintained sympathetic association with various officials of the Soviet Embassy, including Major Constantine I. Ovchinnikov, Col. Pavel F. Berezin, Major Pavel N. Asseev, Col. Ilia M. Saraev, and Col. Anatoly Y. Golkovsky.

FACTS WHICH REFUTE ANY ADVERSE FINDINGS FROM THIS CHARGE:

A. Greene never met Major Ovchinnikov. (R. 87, 263, 264) His testimony in this respect is corroborated by an examination of The Diplomatic Lists, which show this name for the first time in February, 1940, and for the last time in July, 1941. Greene's testimony that the first contact with any Soviet diplomat occurred late in 1942 (R. 422) was challenged by the security officer, who stated that the first meeting occurred early in 1943. (R. 422). In either event, Ovchinnikov was no longer in the United States.

C. The social meetings with these diplomats were of the most formal kind. (R. 64, 65, 82-86, 260-263).

D. The sole purpose of the meetings was the hope of selling the Soviet the Schwartz propeller (R. 64) after it was rejected by the United States military departments. (R. 64, 247, 248). Greene also attempted to make sales to the Chinese Nationalist government (R. 248) and the Portuguese government. (R. 424). Greene's testimony is at least partially corroborated by that of Dr. Juliana Day. (R. 228).

E. The social affairs to which Greene was invited were attended by many notables who cannot possibly be accused of Communist sympathies. (R. 86, 264, 265). See also, "Foreign Minister Molotov Steals Show at Celebration," *The Evening Star*, November 8, 1946, p. B-3. This newspaper report indicates that among the guests was Mr. Justice, then Attorney General, Clark.

G. Greene was entitled to additional compensation for sales. (R. 247). His testimony was corroborated by that of Colonel Henry A. Berliner. (R. 309).

H. Greene's superiors knew of and encouraged his attempt to sell the propeller to the Soviet, (Testimony of L. A. Wells, R. 146, 251; Testimony of Colonel Henry A. Berliner, R. 73, 74, 310-312) which had been a substantial customer of ERCO. (Testimony of L. A. Wells, R. 146; Testimony of Colonel Berliner, R. 75, 309).

II. Reasons relating to asserted associations with named persons, which associations were ordinary business relationships specifically excluded from the purview of the regulations. (§12a(11), supra p. 10a)

12. During the period between 1942 and 1947 SUBJECT maintained frequent and close associations with many Communist party members, including Richard Sasuly and his wife Elizabeth . . .

13. During substantially the same period SUBJECT maintained close association with many persons who have been identified as strong supporters of the Communist conspiracy, including Samuel J. Rodman. . . .

8. During 1946 and 1947 SUBJECT had frequent sympathetic association with Dr. Vaso Syrzentic of the Yugoslav Embassy. Dr. Syrzentic has been identified as an agent of the International Communist Party.

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THESE CHARGES:

A. The board has apparently abandoned the charge as to Dr. Syrzentic, the commercial attache of the Yugoslav Embassy, as there is no adverse finding based upon it. (R. 23, 24).

B. Greene met Sasuly originally because Sasuly was Jean Hinton Greene's superior at the Department of Agriculture. (R. 60, 236). The families saw each other infrequently. (R. 60, 94, 236). Greene and Sasuly were not particularly friendly. (R. 95, 236).

C. At a cocktail party, Greene learned of General Homes, which was engaged in the building of a pre-fabricated house. He believed that he could secure some consulting work for himself, while at the same time, selling ERCO products, because of his familiarity with handling aluminum. (R. 95, 236). He sought Sasuly's aid in securing this work, and to compensate Sasuly for this help, a partnership which

lasted from February to July, 1947, was formed. (R. 237) Greene's testimony was corroborated by the partnership agreement and the letter of termination of the partnership. (R. 239). The strictly business nature of this association is confirmed by the correspondence introduced in evidence, (R. 240), and by the testimony of Clements. (R. 387).

D. Samuel Rodman was interested in General Homes and Greene met him in that connection only. (R. 119, 239) It is, however, possible that Greene also met Rodman in connection with the affairs of Radio Station WQQW, since both were stockholders. (R. 432).

D. Greene met Srzentie only once, a meeting arranged by Sasuly in an effort to sell engineering services. (R. 98, 99, 241, 417-419).

11. SUBJECT had a series of contacts with Laughlin [sic] Currie during the period 1945-1948.

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. At the time that Greene met Dr. Currie, the latter was a special assistant to the President of the United States. (R. 224).

B. Currie, who was about to become the manager of an investment trust, needed the services of an engineer who could evaluate potential investments, (R. 223) and employed Greene at the rate of \$100 a day for such work. (R. 224).

C. That all of the relationship between Greene and Currie was in connection with this consulting work is corroborated by the correspondence between Greene and Currie introduced in evidence, (R. 226) and by the testimony of Clements. (R. 387, 388).

D. Dr. Currie offered Greene regular employment, (R. 224), but this employment was refused by Greene. (R. 225).

E. Dr. Currie was specifically stated by Miss Elizabeth

under oath, at least twice, that he was a Communist, or that he participated in any espionage. "Hearings Regarding Communist Espionage in the United States Government," *Hearings before the Committee on Un-American Activities, House of Representatives, 80th Congress, 2d Session, July 31, 1948, p. 519, August 13, 1948, p. 853.*

F. The Currie relationship was apparently regarded as of no significance by the hearing board in the first proceedings, since no mention was made of it, although obviously this information was available to that board.

III. Reasons arising out of the associations connected with the marriage to Jean Hinton Greene.

A. The marriage relation itself:

2. **SUBJECT'S first wife, Jean Hinton Greene, to whom he was married from approximately December 1942 to approximately December 1947, was an ardent Communist during the greater part of the period of the marriage.**
4. **Many apparently reliable witnesses have testified that during the period of SUBJECT'S first marriage his personal political sympathies were in accord with those of his wife, in that he was sympathetic towards Russia; followed the Communist Party "line"; presented "fellow-traveller" arguments; was apparently influenced by "Jean's wild theories"; etc.**

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THESE CHARGES:

A. Although the point may seem technical, it should be pointed out that these paragraphs reflect the gross inaccuracy of the security officers. No one has "testified" to these things. What is referred to as "testimony" is in fact the unsworn hearsay of unidentified persons, as reported by one or more investigators.

B. Allegations which use such terms as Communist Party line, fellow-traveller arguments, and Jean's wild theories, etc., are on their face so vague that it is impossible to prove or disprove them. Except as they constitute epithets, these terms are simply without semantic content.

C. Nothing in this record supports the charge that Jean Hinton Greene was an ardent Communist. Three witnesses, Greene, Dr. Juliana Day, and Dr. Marjorie Greenberg, testified that there was nothing which, at the time, indicated that Jean Hinton Greene was a Communist. (R. 403, 231, 373, 374). Nothing mentioned by the security officer supports the conclusion necessarily, that Jean had any Communist sympathies. The testimony shows that many of the witnesses characterized her as "radical" but the only specification of her radicalism was her interest in labor unions. (See, e.g., Testimony of Colonel Berliner, R. 312). Cf. Regulations, ¶ 12(21)(b), *Supra*, p. 12a. One informant is said to have referred to Jean Hinton Greene as a "parlor pink" (R. 410). Nor should the reference (R. 282) to the supposed information that there were no mattresses in the Greene house be unmentioned. Unfortunately, slipped discs and the necessity of using a bed-board (R. 379) are not ailments confined to ardent Communists.

D. There is no possibility of any intelligent and rational person concluding, in the face of the overwhelming corroboration of Greene's testimony (R. 218, 221, 436-438) that there was political disagreement between him and Jean Hinton Greene. Jean's letter (R. 231), and the testimony of Clements, (R. 154, 155, 385, 386) Mountjoy, (R. 166, 354, 355), Colonel Berliner, (R. 76, 313, 314), and Dr. Marjorie Greenberg (R. 370, 371) confirm this testimony. Even the board's alleged informant, while supposedly asserting that Greene had once agreed with his former wife, is said to have reported a complete change in viewpoint. (R. 410, 411).

3. During the period of SUBJECT's first marriage he and his wife had many Communist publications in their home, including the "Daily Worker"; "Soviet Russia Today"; "In Fact"; and Karl Marx's "Das Kapital."

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. All of these publications were inquired about in the first hearing. (R. 62, 132, 133). In addition, this board

inquired about "Militant", "Fourth International", and "The New Masses." Both the first and second board obviously believed Greene's testimony that he was unfamiliar with these publications. (R. 133).

B. Greene presently subscribes to none of these publications. They have not been in his house for at least twelve years.

C. A complete list of the books owned by the Greene family was submitted to the second board as an exhibit prepared by Mrs. Evan Fisher, where the books were stored. (R. 396, 397). Since this complete list is in the possession of the military departments, it may be assumed that any questionable or proscribed ones would have been mentioned in the findings of the board.

D. In discussing the "Daily Worker" (R. 404), the security officer quoted "Investigation of Un-American Propaganda Activities in the United States, Appendix, Part IX, *Special Committee on Un-American Activities*, House of Representatives, 78th Congress, 2d Session (1944), p. 678. Possibly his oversight caused him to neglect to mention that the same report, *ibid.*, p. 679, called attention to the fact that on August 14, 1944, which was about the time that Greene was supposed to have seen the "Daily Worker", the paper carried, with his consent, a letter of praise written by then United States Senator Harry S. Truman.

B. Associations which occurred as a result of the marriage to Jean Hinton Greene:

10. During 1946 and 1947 SUBJECT maintained close and sympathetic association with Mr. and Mrs. Nathan Gregory Silvermaster and William Ludwig Ullman. Silvermaster and Ullman have been identified as members of a Soviet Espionage Apparatus active in Washington, D. C., during the 1940's.
12. During the period between 1942 and 1947 SUBJECT maintained frequent and close associations with many Communist Party members, including Richard Sasuly and his wife Elizabeth [discussed supra, p. 21a-22a], Bruce Waybur and his wife Miriam, Martin Popper, Madeline L. Donner, Russell Nixon and Isadore Salkind.

13. During substantially the same period SUBJECT maintained close association with many persons who have been identified as strong supporters of the Communist conspiracy, including Samuel J. Rodman [discussed, supra, p. 22a], Shura Lewis, Owen Lattimore, Ed Fruchtman, and Virginia Gardner.

FACTS WHICH REFUTE ANY ADVERSE INFERENCES FROM THESE CHARGES:

A. The first board obviously accepted Greene's testimony as to his relationship with these persons. The second board appears to have accepted his testimony with respect to Owen Lattimore, Ed Fruchtman, and Virginia Gardner, since these people are not mentioned in the findings. (R. 23, 24).

B. All of these people were persons whom Jean Hinton Greene met, primarily in connection with her employment at the Department of Agriculture. All of them had positions of prestige in the Community. (R. 59, 116, 200, 210, with regard to Waybur; R. 105, 211, with regard to Popper; R. 112, 213, 214, with regard to Nixon; R. 114, 214, with regard to Salkind; R. 117, 118, 214, 215, with regard to Shura Lewis; Silvermaster & Ullman, R. 101-104, 201-203; 384; 385; 425-429)

C. Greene knew none of these people before his marriage to Jean Hinton Greene. (R. 115, 205). Even during the marriage, these were not friends of Greene himself, as is confirmed by the testimony of Dr. Marjorie Greenberg and Clarence J. Clements, Jr. (R. 368, 369, 384).

D. Greene has seen none of these people for almost twelve years. (R. 205). The acquaintanceships, casual as they were, ended with the termination of the marriage to Jean. (R. 205). This testimony is corroborated by the testimony of the present Mrs. Greene, (R. 394, 395) Burgess, (R. 331), and Hubbard. (R. 341).

IV. Reasons relating to organizational relationships charged to Greene personally.

1. During 1942 SUBJECT was a member of the Washington Book Shop Association, an organization that has been officially cited by the Attorney General of the United States as Communist and subversive.

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. Greene paid dues of one dollar for one year in order to secure a patronage discount in connection with the purchase of books and records. (R. 126, 204 et seq.)

B. He never rejoined the Bookshop after this first year. (R. 204).

C. The attorney general, in his memorandum of reasons for citing the Book Shop took account of the fact that it was a commercial enterprise and said, "In view of its nature, investigations of charges of participation in the Washington Cooperative Book Shop have been restricted to exclude mere patrons or subscribers and to include only those fairly charged with participation in its management." Reprinted in "Un-American Propaganda Activities, Appendix IX," *Special Committee on Un-American Activities*, House of Representatives, 78th Congress, 2d session, p. 1675. Under this definition, Greene was not a member of the Book Shop.

5. In about 1946 SUBJECT invested approximately \$1000. in the Metropolitan Broadcasting Corporation and later became a director of its Radio Station WQQW. It has been reliably reported that many of the stockholders of the corporation were Communists or pro-Communists and that the news coverage and radio programs of Station WQQW frequently paralleled the Communist Party "line."

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. The station was intended to provide broadcasting of classical music with a minimum of advertising. Greene believed that such a station was needed and would be successful financially. (R. 243, 244). He served as a

director of the corporation from the early part of 1947 to the summer of 1947. (R. 244).

B. A photostatic copy of the list of stockholders at the time Greene was connected with the station was filed as an Exhibit in the second hearing. There has been no specification as to which of these persons are allegedly Communist or pro-Communist.

C. The news coverage was supplied by the Associated Press. (R. 415).

D. The source of the characterization of the station as pro-Communist is revealed by the security officer to have been "Rankin and Bilbo." (R. 439).

6. On 7 April 1947 SUBJECT and his wife Jean attended the Third Annual Dinner of the Southern Conference for Human Welfare, an organization that has been officially cited as a Communist front.

FACTS WHICH REFUTE ANY ADVERSE INFERENCE FROM THIS CHARGE:

A. The "official citation" to which reference is made is "Report on Southern Conference for Human Welfare," *Investigation of Un-American Activities in the United States*, Committee on Un-American Activities, House of Representatives, 80th Congress, 1st Session, June 16, 1947, Report No. 592.

B. Greene's only connection with this organization was the attending of the dinner meeting, although there is a possibility that he might have attended two of these meetings and not one. (R. 242).

C. The description of the statements made at the 1947 dinner, as quoted by the security officer from the House Committee report, *supra*, at p. 10, is at complete divergence with the contemporaneous report of the meeting which appeared in *The Evening Star* the following day. "Welfare Conference Warned of Forces Fighting Demo-

eracy," The Evening Star, April 8, 1947, p. B-3. Greene's recollection of the meeting (R. 92) is in substantial agreement with the report in the Evening Star. This newspaper reports that Mr. Justices Black and Douglas were in attendance.

V. The finding that Greene is of doubtful credibility. (R. 24).

THIS CHARGE IS REFUTED BY THE FOLLOWING FACTS

A. The board at the first hearing accepted Greene's testimony, and the board at the second hearing, which purports to doubt his credibility, believed his uncorroborated testimony as to Hess, Syrzentic, Owen Lattimore, Ed Fruchtman, and Virginia Gardner.

B. No mention of this charge was made until March 12, 1956, a year and a half after the institution of this suit, and the charge is then made in a document prepared by respondent's subordinates for an obviously self-serving purpose.

C. Greene's testimony was corroborated with respect to important issues by the testimony of disinterested witnesses and by documentary evidence.

D. Greene's testimony was stated to have been in accord with that of the alleged informants. (e.g., R. 422, 425).